

आरत का राजपत्र
The Gazette of India



प्रसाधारण
EXTRAORDINARY

भाग II—खण्ड 2
PART II—Section 2

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं. 25] नई विल्सो, बुधवार, मई 23, 1990/ज्येष्ठ 2, 1912
No. 25] NEW DELHI, WEDNESDAY, MAY 23, 1990/JYAISTHA 2, 1912

इस भाग में मिस्र पृष्ठ संलग्न वी जाती है जिससे कि यह ग्रन्ति संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed
as a separate compilation.

RAJYA SABHA

The following Bill was introduced in the Rajya Sabha on the 23rd May, 1990:—

BILL No. XXIII OF 1990

A Bill further to amend the Indian Succession Act, 1925.

Be it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

1. This Act may be called the Indian Succession (Amendment) Act, 1990.

Short title.

2. In the Indian Succession Act, 1925 (hereinafter referred to as the principal Act), in section 50,—

Amendment of section 50.

(a) in clause (b), for the words "a widow of any lineal descendant", the words "a widow or widower of any lineal descendant" shall be substituted;

(b) in clause (c),—

(i) for the words "widow of any relative", the words "widow or widower of any relative" shall be substituted;

(ii) for the word "she", at both the places where it occurs, the words "such widow or widower" shall be substituted.

Substitution of new section for sections 51 and 52.

Division of intestate's property among widow, widower, children and parents.

Substitution of new section for section 54.

Division of property where intestate leaves no lineal descendant but leaves a widow or widower or a widow or widower of any lineal descendant.

3. For sections 51 and 52 of the principal Act, the following section shall be substituted, namely:—

“51. (1) Subject to the provisions of sub-section (2), the property of which a Parsi dies intestate shall be divided,—

(a) where such Parsi dies leaving a widow or widower and children, among the widow or widower, and children so that the widow or widower and each child receive equal shares;

(b) where such Parsi dies leaving children, but no widow or widower, among the children in equal shares.

(2) Where a Parsi dies leaving one or both parents in addition to children or widow or widower and children, the property of which such Parsi dies intestate shall be so divided that the parent or each of the parents shall receive a share equal to half the share of each child.”.

4. For section 54 of the principal Act, the following section shall be substituted, namely:—

“54. Where a Parsi dies without leaving any lineal descendant but leaving a widow or widower or a widow or widower of a lineal descendant, the property of which the intestate dies intestate shall be divided in accordance with the following rules, namely:—

(a) if the intestate leaves a widow or widower but no widow or widower of a lineal descendant, the widow or widower shall take half the said property;

(b) if the intestate leaves a widow or widower and also a widow or widower of any lineal descendant, his widow or her widower shall receive one-third of the said property and the widow or widower of any lineal descendant shall receive another one-third or if there is more than one such widow or widower of lineal descendants, the last mentioned one-third shall be divided equally among them;

(c) if the intestate leaves no widow or widower, but one widow or widower of a lineal descendant, such widow or widower of the lineal descendant shall receive one-third of the said property or, if the intestate leaves no widow or widower but more than one widow or widower of lineal descendants, two-thirds of the said property shall be divided among such widows or widowers of the lineal descendants in equal shares;

(d) the residue after the division specified in clause (a), or clause (b) or clause (c) has been made shall be distributed

among the relatives of the intestate in the order specified in Part I of Schedule II; and the next-of-kin standing first in Part I of that Schedule shall be preferred to those standing second, the second to the third and so on in succession, provided that the property shall be so distributed that each male and female standing in the same degree of propinquity shall receive equal shares;

(e) if there are no relatives entitled to the residue under clause (d), the whole of the residue shall be distributed in proportion to the shares specified among the persons entitled to receive shares under this section.”.

5. In section 55 of the principal Act,—

(a) for the words “a widow of any lineal descendant”, the words “a widow or widower of any lineal descendant” shall be substituted;

(b) for the words “each male shall take double the share of each female standing in the same degree of propinquity”, the words “each male and female standing in the same degree of propinquity shall receive equal shares” shall be substituted.

6. To section 118 of the principal Act, the following proviso shall be added, namely:—

“Provided that nothing in this section shall apply to a Parsi.”.

7. For Schedule II of the principal Act, the following Schedule shall be substituted, namely:—

Amend-
ment of
section
55.

Amend-
ment of
section
118.

Substi-
tution
of new
Schedule
for
Schedule
II.

“SCHEDULE II

PART I

(See section 54)

(1) Father and mother.

(2) Brothers and sisters (other than half brothers and sisters) and lineal descendants of such of them as shall have predeceased the intestate.

(3) Paternal and maternal grandparents.

(4) Children of paternal and maternal grandparents and the lineal descendants of such of them as have predeceased the intestate.

(5) Paternal and maternal grandparents' parents.

(6) Paternal and maternal grandparents' parents' children and the lineal descendants of such of them as have predeceased the intestate.

PART II

(See section 55)

- (1) Father and mother.
- (2) Brothers and sisters (other than half brothers and sisters) and lineal descendants of such of them as shall have predeceased the intestate.
- (3) Paternal and maternal grandparents.
- (4) Children of paternal and maternal grandparents and the lineal descendants of such of them as have predeceased the intestate.
- (5) Paternal and maternal grandparents' parents.
- (6) Paternal and maternal grandparents' children and the lineal descendants of such of them as have predeceased the intestate.
- (7) Half brothers and sisters and the lineal descendants of such of them as have predeceased the intestate.
- (8) Widows of brothers or half brothers and widowers of sisters or half sisters.
- (9) Paternal or maternal grandparents children's widows or widowers.
- (10) Widows or widowers of deceased lineal descendants of the intestate who have not married again before the death of the intestate."

STATEMENT OF OBJECTS AND REASONS

The Parsi community in India is governed by the Indian Succession Act, 1925 in the matter of succession. Sections 50 to 56 of that Act provide for the division of property of male and female intestates. In the female intestate's property, daughter and son get equal shares, whereas in the male intestate's property, son gets double the share of the daughter. The Law Commission of India in its One hundred and Tenth Report have reviewed these provisions and recommended that the discrimination made between sons and daughters in the case of a male intestate's property should be removed. The Parsi community has now come forward for making amendments in the law so as to do away with the discrimination between sons and daughters by providing that both will share equally in the male intestate's property also. The proposed amendments are also in keeping with the policy of the Government to confer equal rights for women in the parental property.

2. Certain consequential amendments to bring in equality between other male and female heirs have also been proposed.
3. Further, under section 118 of the Act, a testator, if he has a nephew, niece or a nearer relative, cannot bequeath any of his property to religious or charitable purposes or uses except in the manner and within the time limit provided in that section. The Parsi community would like to be exempted from such a provision so that a Parsi can bequeath his property without any restrictions.
4. The Bill seeks to achieve the above objects.

DINESH GOSWAMI.

SUDARSHAN AGARWAL,
Secretary-General.

